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15 Attorneys for Plaintiff
16 JOBY, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

15 JOBY, INC.,

16 Plaintiff,

17 v.

18 TOCAD AMERICA, INC.,

19 Defendant.

Case No. 3:07-CV-06455 (SI)

**DECLARATION OF VIRGINIA K.
DEMARCHI IN SUPPORT OF JOBY,
INC.'S OPPOSITION TO TOCAD
AMERICA, INC.'S MOTION TO
ENLARGE TIME**

21 I, Virginia K. DeMarchi, declare as follows:

22 1. I am a partner with the law firm of Fenwick & West LLP and counsel to plaintiff
23 Joby, Inc. ("Joby"). I make this declaration based upon my personal knowledge, and if called
24 upon to testify, could and would testify competently to the matters set forth below.

25 2. Joby and Tacad representatives met in person with their respective counsel in mid-
26 February 2008 to discuss this dispute. During that meeting Joby made a proposal for resolution
27 of the dispute, and Tacad represented that it would share a proposed redesign of its flexible tripod
28 before the parties' next meeting. At Tacad's request, the next meeting was scheduled for

1 March 14, 2008, as Tocad's representative, Richard Darrow, indicated that he already had plans
2 to be in San Francisco on that date.

3 3. During the next few weeks following Joby's mid-February meeting with Tocad, I
4 made repeated requests of Tocad's counsel, Michael Warnecke, for images of Tocad's proposed
5 redesign, but received nothing. On March 13, 2008, the day before the parties' next meeting was
6 to take place I received copies of drawings representing Tocad's proposed redesign. Joby found
7 these drawings unacceptable, and I conveyed to Mr. Warnecke that, in light of what Tocad was
8 apparently proposing, Joby did not feel a further meeting would be productive.

9 4. Joby served its complaint on Tocad on March 17, 2008 and filed its motion for a
10 preliminary injunction at about 1:00 p.m. on March 28, 2008 using the Court's ECF system. At
11 my direction, copies of Joby's motion papers were emailed directly to Mr. Warnecke and hand-
12 delivered to his offices in Chicago that same afternoon.

13 5. On March 31, 2008, I had a telephone call with Mr. Warnecke and his colleague
14 Debra Bernard. Mr. Warnecke said that Tocad might require some discovery in order to oppose
15 Joby's motion for a preliminary injunction. I asked Mr. Warnecke to let me know what
16 information Tocad required, and indicated I thought we should be able to work something out.
17 Mr. Warnecke also said that he would be traveling in mid-May and would be unavailable until
18 May 23. He asked that Joby stipulate to scheduling the hearing on its motion for that date.

19 6. A few days later, Ms. Bernard informed me that Mr. Warnecke would not be able
20 to prepare for a hearing on May 23, due to his travel schedule, and she asked that Joby stipulate to
21 a hearing on May 30.

22 7. I spoke again by telephone with Ms. Bernard on April 8, 2008. During that call, I
23 advised Ms. Bernard that Joby would agree to continue the hearing to May 30, but that in light of
24 the significant additional time that would be available to Tocad, Joby wanted an adjustment of the
25 briefing schedule to allow it time to take discovery of Tocad's declarants, if that turned out to be
26 necessary. Accordingly, I proposed that Tocad file its opposition on May 2 and Joby file its reply
27 on May 16. Ms. Bernard replied that Tocad would not agree to that modification of the briefing
28 schedule.

